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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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August 5, 1994

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: RM No. 8491
Ex Parte Reply Comments

Dear Mr. Caton:

Enclosed is an original and four copies of ex parte Reply Comments of Black Data Processing Associates, Inc. for inclusion in the record of RM No. 8491.

Please call me if there are questions.

Sincerely,

A.J. Cooper
A.J. Cooper

Enclosure

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AUG - 5 1994

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

PETITION FOR RULEMAKING TO ADAPT
THE SECTION 214 PROCESS TO THE
CONSTRUCTION OF VIDEO DIALTONE
FACILITIES

RM No. 8491

PETITION FOR RELIEF FROM UNJUST
AND UNREASONABLE DISCRIMINATION
IN THE DEPLOYMENT OF VIDEO
DIALTONE FACILITIES

To: The Commission

REPLY COMMENTS OF BLACK
DATA PROCESSING ASSOCIATES, INC.

In this Reply, Black Data Processing Associates, Inc. ("BDPA") responds to the initial comments filed in this proceeding. BDPA is a non-profit professional organization formed 20 years ago to promote opportunities for minorities in the computer industry. Today, there are more than 50 BDPA chapters across the country.^{1/}

BDPA agrees with petitioners that discriminatory deployment of video dialtone networks should not be permitted, and any attempt to circumvent universal coverage should result in application denial. BDPA opposes discriminatory deployment of information age telecommunications systems because discriminatory deployment could significantly harm ethnic minorities.

^{1/} BDPA files these Reply Comments as an ex parte presentation in accordance with Section 1.1206(a)(1) of the Rules. As a convenience, BDPA has served the Reply on other commenters as reflected in the attached Certificate of Service.

However, as is often the case when considering the need for government intervention to promote a particular objective, the debate here involves the question of what specific government action is most appropriate to promote the objective. Thus, every commenter agrees with the objective of ensuring that local exchange carriers deploy video dialtone networks in a nondiscriminatory manner, but there is considerable debate about the particular rule the petitioners ask the Commission to adopt in order to promote this objective. Specifically, petitioners propose a rule that requires automatic denial of any application in which the applicant fails to propose service to low income and minority residents in the same proportion as their population in the broader geographic region where the video dialtone network would be built. Of the 19 parties filing comments in this proceeding, just two -- People for the American Way and Pennsylvania Public Utility Commission -- endorsed this rule.^{2/} The remainder advocated different ways to promote nondiscriminatory deployment of video dialtone networks.^{3/}

^{2/} Letter of People for the American Way at 2 (July 12, 1994); Comments of Penn. Pub. Util. Comm'n. at 2.

^{3/} For example, the Local Community Coalition proposes to prevent discrimination through a new FCC policy that would give local franchising authorities broad authority to veto specific video dialtone applications. See Comments of Local Community Coalition at 3, 13-16. The National Captioning Institute would prevent discrimination through a rule that requires all video dialtone systems to deliver line 21 captions to viewers in a form that can be decoded. See Comments of the National Captioning Institute at 3-4. The Alliance for Public Technology ("APT") urges the Commission to form an advisory committee to develop recommendations to ensure non-discriminatory availability of a high capacity, switched telecommunications network capable of providing video dialtone and other services. APT Comments at 3. America's
(continued...)

BDPA agrees with the vast majority of commenters that the rule petitioners have proposed for preventing discrimination in the deployment of video dialtone networks should not be adopted. BDPA believes this rule would actually retard the deployment of these new networks to the detriment of all consumers, including ethnic minorities. Delaying deployment and operation of these new networks also would delay job opportunities for minorities.

Rather than adopt the rule that petitioners have requested, the Commission should issue a notice of inquiry to investigate its options for preventing discrimination in deployment of new technologies and communications services and to examine the benefits and risks of implementing each option. In this regard, BDPA urges the agency to consider adopting regulatory policies that would provide incentives to increase minority ownership of the communications services that will be provided using video dialtone networks. Just last month, the agency recognized the importance of promoting minority ownership of another new communications service, PCS. It did this by adopting regulations designed to help ensure that minorities and small businesses have an opportunity to compete with more established firms in bidding for PCS licenses. Implementation of Section 309(j) of the Communications Act (Fifth Report and Order), FCC 94-178 at ¶¶ 93-217 (rel. July 15, 1994). New policies designed to promote minority ownership of

^{3/}(...continued)

Public Television Stations ("APTS") apparently believes that the best way to prevent discriminatory deployment of video dialtone networks is to give reduced price access to those who provide public telecommunications services. See APTS Comments at 2.

communications services that will utilize video dialtone networks would be similarly desirable.

CONCLUSION

The Commission should not adopt the regulations that petitioners have proposed to prevent discrimination in deployment of video dialtone networks. These regulations would stifle development of new technologies rather than prevent discriminatory deployment, and few commenters support them. Instead, the Commission should issue a notice of inquiry to investigate other options for ensuring that minorities and low income people receive the benefits of the information age. Adoption of policies designed to increase opportunities for minority ownership of the communications services that will be offered via video dialtone networks should be at the top of the list of options the agency investigates.

Respectfully submitted,

BLACK DATA PROCESSING
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August 5, 1994

CERTIFICATE OF SERVICE

I certify that a copy of the attached "REPLY COMMENTS OF NATIONAL BLACK DATA PROCESSING ASSOCIATES, INC." was mailed on August 5, 1994, by first class mail to the following:

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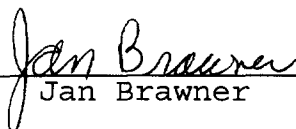
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